

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, December 21, 2005, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Dick Esseks, Roger Larson, Mary Strand, Lynn Sunderman and Tommy Taylor; (Gerry Krieser and Melinda Pearson absent). Marvin Krout, Ray Hill, Tom Cajka, Kent Morgan and Jean Walker of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held December 7, 2005. Motion for approval made by Taylor, seconded by Carroll and carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Krieser and Pearson absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

December 21, 2005

Members present: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor; Krieser and Pearson absent.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 05016.**

Ex Parte Communications: None.

Larson moved to approve the Consent Agenda, seconded by Taylor and carried 7-0: Carlson, Carroll, Esseks, Larson, Strand, Sunderman and Taylor voting 'yes'; Krieser and Pearson absent.

SPECIAL PERMIT NO. 05050,
HUNTERS POINTE TOWNHOMES COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT N. 20TH STREET AND BENTON STREET.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: December 21, 2005

Members present: Esseks, Larson, Sunderman, Strand, Taylor and Carlson; Carroll declaring a conflict of interest; Pearson and Krieser absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Additional information submitted for the record: Tom Cajka of Planning staff submitted a revised letter from L.W. Hoffman with concerns about the general grading of the project; the density; he does not believe there should be a connection from the mobile home court on Thomasville Road; and there should be a landscape buffer between the existing residences to the west.

Proponents

1. Tom Huston, 233 S. 13th, Suite 1900, appeared on behalf of the applicant, **Cameron General Contractors**, for this 116-unit townhome project located south of 18th and Superior Streets, on approximately 26 acres of undeveloped property. In trying to comply with the Comprehensive Plan which encourages infill development, this project does present a challenge for development in a built environment. This 26 acres was actually approved in 1970 under Special Permit No. 499 for the balance of the mobile home court, Marv IV. The existing approved special permit would permit 110 mobile home pad sites to be constructed on this property without any further public process.

Huston reiterated that the Comprehensive Plan does encourage this type of infill development to maximize existing infrastructure with greater density. All utilities are available and the staff is recommending approval. The underlying zoning is R-2, which does permit duplexes as a matter of right. This is a request for a community unit plan in order to have private streets. The proposed development would have 116 dwelling units, which is approximately 75% of the maximum permitted density. This neighborhood would be platted as individual "for sale" units. Restrictive covenants will create a homeowners association to maintain the common area, provide the common services and to protect the exterior appearance of this property. Huston presumes that the purchasers in this development may be mostly retired individuals.

Huston went on to state that he originally presented this project in October and asked for deferrals to continue to meet with the neighborhood to the west and the adjacent neighbor to

the north. The neighbor to the north is some undeveloped property owned by the Catholic Diocese Housing Ministries. This developer proposed to build them a street at \$100,000, but they do not have a development plan and they do not want to be tied to a specific configuration at this time. At this point, there is no direct northerly access to Superior Street for this development. That street will be stubbed at the common boundary line.

Huston submitted a motion to amend the conditions of approval which have been worked out and agreed upon with the neighbors to the west:

Delete Condition #2.1.1.15: Connect Thomasville Ave. to N. 18th Street.

Add Condition #2.1.1.17: Add a note to the site plan reflecting a minimum 40' rear yard between the buildings and the west and south property lines.

Add Condition #2.1.1.18: Add a note to the site plan to reflect that the transition of the grade from the existing single family dwelling lots located west of the development will be accomplished with an approximately 3-4 foot retaining wall located no closer than 10 feet from the west property line. The western 10 feet as reflected on the site plan, including the 10-15 foot distance between the west property line and the retaining wall, shall be landscaped with bushes and trees.

Speaking to the rear yard issue, Huston pointed out that R-2 requires a minimum 24' rear yard; the site plan on this proposal is showing a minimum of 40', and 70-75' on the southern edge, with the areas on the western edge showing 45-50'. This developer has made the commitment to the neighborhood to impose a minimum 40' rear yard requirement.

With regard to the grading issues, Huston pointed out that the original plan had reflected a 10' retaining wall at the property line, a solution the neighbors did not like. They are proposing to pull the retaining wall back 15' to make a 4' retaining wall with utility easements at the base of that wall. The majority of the retaining wall will be located south of North Gate Road.

The only disagreement is Condition #2.1.1.15, which requires connection to Thomasville Avenue. The developer does not want to make that connection. The eastern property line is a dry creek bed that is 15-20' deep. Any connection over that creek bed would require a very long culvert and would require the removal of mature trees which provide a 100% screen and buffer that the developer and the neighbors wish to retain. If this connection is required, it would remove a 150' span of mature trees in that buffer area to install the culvert. There are three access points out of the development: northeast to the west (North Gate); one to the south (N. 20th); and one to the north through the mobile home court.

Huston further advised that the individually platted townhomes would sell in the range of \$135,000 to \$140,000. The developer does not want to denigrate the adjacent neighborhood,

but wants to separate his development as much as possible from the mobile home court. It is a marketing issue.

Esseks inquired as to how many lateral feet of trees would be removed if the connection is made. Huston stated that if the connection to Thomasville Avenue is required, the channel would require the installation of a culvert, which would require the removal of 145-150' of the trees. The developer wants to retain the span of trees as a buffer area, which is also important to the neighbors to the west. It is because of the grade and the depth of the channel.

Strand suggested that the developer could agree to grant an easement for the possibility of a pedestrian connection or street connection in the future. Huston explained that the long term goal is that when the property to the north develops, there will be traffic circulation up to Superior Street from the stub. The difficulty with granting an easement is that they would lose the natural buffer area. Possibly a pedestrian easement would be permissible, but they still have to figure out how to cross the 20' deep ditch. Strand believes it looks like there is a clearing off to the right. Could that connection go through there? Huston explained that the property to the north is owned by the Diocese and there is a detention cell that ultimately leads into the channel. This developer could not grant any kind of easement on another owner's property. The majority of the trees are under the contract and would be part of an outlot that the association could maintain and protect.

Esseks inquired as to the location of the nearest fire station and emergency medical service. It was pointed out that the fire station is on 14th and Adams.

Huston further stated that his client wants to maintain good circulation within the neighborhood, but the detriments from removing those trees do not outweigh the positives by having the connection made. His client wishes to avoid that connection.

2. Andrew Loudon, of the Baylor, Evnen Law Firm, 1238 O Street, appeared on behalf of the current owner and neighbor to the east, **Mark IV Investments**, and testified in support of the proposal and the proposed motions to amend. His client also wishes to preserve the buffer and 150' span of existing trees. The residents of the mobile home court appreciate that mature foliage and the owner would like to maintain the current existing configuration. He also admitted that tying this proposed neighborhood into the mobile home court might well devalue the applicant's investment. Mark IV Investments is very much in support of this new neighborhood.

Opposition

1. Bill Hoffman, who lives directly west of the site, testified in opposition and referred to his letter dated December 10, 2005. The cutback in his yard will no longer be a 10' cut. He is concerned about the existing trees that have been planted along the lot line. There was

originally a 25' area from his property preserved for landscaping. There are some trees on his own property which are probably 3-5' from the lot line, so he would not want to see a long deep cut to undermine the tree roots; however, he has now been informed that the cut will be less.

Hoffman's biggest concern is the traffic and the number of cars. One hundred sixteen units with three bedrooms is going to add a lot more cars to these streets. North Gate is a small 26' street leading onto another 26' street (Bel-Ridge Drive). You can hardly make a left turn onto Superior Street from Bel-Ridge Drive now. It is important to know the problem that exists with the traffic. There will be a lot of cars bottled in trying to exit on two minor streets. The traffic at the corner of Superior and Bel-Ridge is already very difficult.

Hoffman also expressed concern about the off-street parking. On a 26' wide street with so many driveways there is hardly any parking left on the street. Most developments have provided off-street parking.

Hoffman suggested that the eight units behind Bel-Ridge Drive should be eliminated to allow the street to be moved over. When he did the subdivision for Bel-Ridge it was easy to match the grades with existing grades without any change of slope between the two properties. The 3% intersection approach grade to North Gate on N. 20th is a very minimum. North Gate all of a sudden starts to go down at the dead end.

Hoffman reiterated that his main concern is 116 townhouses which could reflect about 350 additional cars, so that is a lot of traffic and a lot of storage. But moreover, the access going south right now out of the area is a very narrow 26' wide street, and you are going to have to eliminate parking on one side of that street. The density between the mobile homes and this doubles or triples what exists there today.

Hoffman stated that he cannot be fully in favor of this without the outlots; more consideration for the traffic; and no change in the grade at the rear of all the properties. This would allow all the existing trees to remain.

Staff questions

Taylor asked staff to respond to the proposed amendments to the conditions of approval. Cajka agreed with the motion to amend, except for the deletion of the Thomasville Avenue connection (#2.1.1.15). Esseks inquired as to the public importance of that connection. Cajka stated that it reduces the block length and provides more connectivity through the development. Without the connection to the north to Superior Street there are basically two connection points in and out.

Chad Blahak of Public Works also offered that the primary reason for recommending that connection is that without the north connection, it forces 100+ units (700-800 trips a day) onto North Gate and up Bel-Ridge to Superior Street or through the neighborhoods. The Thomasville connection would give a more direct connection to the arterial street system. Carlson inquired whether the staff's objection stands if they are able to secure a northern route to Superior Street. Blahak stated that it is beneficial to have multiple ways out, but he would agree that it is less important if they get the Superior Street connection. Blahak also observed that the ditch is pretty deep, but it is not a flood corridor so it is not a whole lot different than when a development chooses to cross ditches for various reasons in other developments. Blahak does not believe the environmental report showed any wetlands in that area.

Response by the Applicant

Huston reiterated that they have revised the grading plan to deal with the grade change on the west edge and they have eliminated any 10' retaining wall. The retaining wall in the area north of North Gate will be pulled back from the property line 15', and that wall will be approximately 2-3 feet.

With regard to traffic, Huston suggested that it is important to remember that each of these townhomes will have four parking stalls – two in the garage and two within the driveway. There is some excess off-street parking for visitors and guests. The covenants do restrict parking on the street. These are private streets, but they will be just like any other neighborhood residential street.

Huston withdrew the waiver of the 3% grade change and this development will comply with that design standard.

The only issue is the connection to Thomasville Avenue. Huston again pointed out that they do show the connection to North Gate Road where the traffic can go north to Superior Street; there is still the connection to South 20th where the traffic can go east or west; and there is a third connection through the mobile home court up to Superior Street. Thomasville will not add another access for exiting traffic.

Huston also reiterated that infill development is sometimes difficult and it does present a challenge, but it is encouraged in the Comprehensive Plan and there needs to be some flexibility in how to meet the design standards. An infill development, compounded by the adjacent mobile home court, does not create a standard street system. The developer wants to maintain the trees. Public Works takes the position that the benefit added by the street outweighs the benefit of those trees. The developer disagrees.

Strand inquired about restricting parking on the street. Huston stated that the covenants as envisioned would restrict on-street parking – the neighborhood does not want to have their

own junk car problem; the covenants provide that no inoperable vehicles can be parked anywhere within the development and they cannot stay in one location on the street for more than seven days. His client believes that the majority of these units will not be occupied by families with children, but rather retirees or single individuals with one or maybe two cars, and each unit has four parking stalls. Strand still encouraged that more off-street parking be added. Huston agreed to take a look at it.

Esseks inquired as to the frontage per unit. Huston advised that each lot is 42', keeping in mind that each individual unit is a separate lot. Therefore, each building will be minimum 84' frontage.

ACTION BY PLANNING COMMISSION:

December 21, 2005

Strand moved to approve the staff recommendation of conditional approval, with the amendments requested by applicant, seconded by Larson.

Esseks is concerned about the traffic circulation. Those folks that want to go to Superior, which is the nearest arterial, will "have to come all the way down here and then go out." He can appreciate that the development will lose 2-4 units, but he wonders whether it wouldn't be a more sellable group of homes because of the easier access to the north. He thinks good connectivity is a good principle.

Strand does not want to require the connection because it connects two different street systems. She does not want to force a culvert and completely change the landscape. She doesn't believe it is going to be that difficult to get to Superior Street. She would rather work with the natural topography.

Larson agreed. He does not believe the connections are too far or a terrible inconvenience.

Carlson noted that there are two street stubs that are not being connected, and he is not sure that this action necessitates that the northern stub eventually being connected. Ray Hill of Planning staff clarified that the plan shows a connection up to the north. The staff is assuming that the property to the north would have to line up any street system they have with this street system. But, it is all dependent upon the property to the north taking some kind of action.

Carlson suggested that it would be nice for the houses north of North Gate to be able to have more access than to loop down and come back.

Esseks believes that connectivity is so important for convenience and for emergency services. This is infill, but they are so close. It is not that they have to build a road a long distance. The sacrifice of the trees is important, but he believes the other values are stronger.

Esseks moved to amend to retain the connection of Thomasville Avenue to North 18th Street (#2.1.1.15), seconded by Taylor.

Strand stated that she will not support the amendment. She would support it, however, if it were changed to say they do not have to connect Thomasville off north 18th if a connection can be made through the property to the north to Superior Street. Esseks accepted this as a friendly amendment. Ray Hill of Planning staff suggested then that the Planning Commission should amend the conditions such that none of the homes north of North Gate shall be built until that connection is made. There needs to be a trigger, such as the furthest six buildings (12 units) would not be built until the connection to the north to Superior Street is made. Esseks, who made the motion to amend, and Taylor, who seconded the motion to amend, agreed.

Motion to amend carried 5-1: Esseks, Sunderman, Strand, Taylor and Carlson voting 'yes'; Larson voting 'no'; Carroll declaring a conflict of interest; Pearson and Krieser absent.

Main motion, as amended, carried 6-0: Esseks, Larson, Sunderman, Strand, Taylor and Carlson voting 'yes'; Carroll declaring a conflict of interest; Pearson and Krieser absent. This is final action, unless appealed to the City Council within 14 days.

CHANGE OF ZONE NO. 04066,
TEXT AMENDMENTS TO TITLE 27;
MISCELLANEOUS NO. 04015,
TEXT AMENDMENTS TO THE CITY OF
LINCOLN DESIGN STANDARDS; and
MISCELLANEOUS NO. 05007,
TEXT AMENDMENTS TO TITLE 26,
PERTAINING TO STREETScape AND
PEDESTRIAN STANDARDS, AND THE
PROCESS OF APPROVING WAIVERS OF
DESIGN STANDARDS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: December 21, 2005

Members present: Esseks, Larson, Sunderman, Strand, Carroll, Taylor and Carlson; Pearson and Krieser absent.

Staff recommendation: Approval.

Ex Parte Communications: The Clerk announced an e-mail communication to the Planning Commission from Marvin Krout with the staff's proposed amendments in response to meeting with the Realtors Association, and an e-mail communication from Commissioner Esseks explaining his discussion with Laura Bell expressing concern about the proposed 90% screen.

Taylor stated that he also received a phone call from Laura Bell.

Esseks inquired whether the staff had found any information about how investment decisions made by businesses coming to Lincoln or deciding to stay here might be affected or have been affected by pedestrian standards and also landscape standards. Tom Cajka of Planning staff advised that he did some research on other cities and communities. There are a lot of publications that talk about landscaping and screening and economic development and he submitted some citations of different references. Most of the research shows that landscape and screening enhances commercial and residential property. There have been studies that have shown that nice landscaping increases the resale value of both industrial/commercial properties and residential properties. Street trees also add to the value.

The staff had also looked into some Police Departments in different cities. There is actually a program called "Crime Prevention through Environmental Design" that talks about different ways to incorporate landscaping to have a safe visible area. Most of the cities advocate that if you plant shrubs that they be no higher than 3', and if you have trees, that they be pruned to at least 6' in height.

Cajka submitted proposed amendments to the design standard text:

Add to Section 3, General Requirements: Requirements of this Chapter shall apply to new construction of structures or parking lots, additions to existing buildings and additions to existing parking lots. The screening and landscaping requirements shall only apply to the area of expansion for building additions or parking lot additions.

Section 7.1 (d) - second line: **Strike** "from two feet (2') to four feet (4')" and **Add**, "ground elevation to three feet (3')."

Section 7.4 - second paragraph, third line, **replace** "thirty percent (30%)" with "twenty percent (20%)".

Taylor expressed concern about the safety of parking lots with these proposed requirements providing places for people with criminal intent to hide. He is also thinking in terms of water runoff and how to do things to mitigate flood issues, etc. He understands that by doing this it makes our cities look a lot better, but he does not want to produce a problem. Cajka does not believe the increase is going to make a difference. It is basically to screen the bumpers, headlights and cars. We are not talking about big trees. The three to six feet is a recommendation from several police departments.

Strand inquired about the requirement for installation by a certified landscape contractor as approved by the Parks and Recreation Department. Lynn Johnson, Director of Parks and Recreation, explained that this is a process that verifies they have a license with the state. If

someone wants to install plant materials in the public right-of-way, we want them to attend an annual training session. The Parks Department goes over the guidelines for distance from water meters, driveways, etc. Strand inquired whether this standard applies to the screen behind the fence on an arterial street. Johnson indicated that it does. Ray Hill of Planning staff suggested that most likely the screen behind the fence will be planted at the same time that the street is constructed. There will be a bond required for the landscaping and it will probably be done as a big contract for the entire section of the final plat where it abuts a major street. It is part of the subdivision requirement.

Strand believes this proposal adds more cost than intended. She wondered whether a neighborhood association could get together and do plants around their entrance, signs, medians, etc. Johnson advised that this only applies to the landscaping required through the subdivision and design standards. Once that initial landscaping is installed, it is perfectly acceptable for a neighborhood or homeowners association to come back in and add plants, if it is not required landscaping that would be subject to the certified landscape contract condition.

Upon further discussion, it was clarified that these requirements provide for a 6' landscape strip in the front yard. It was also clarified that if you are only doing interior redesign of the building and not reconstructing the parking lot, this would not apply. The only time these standards apply is if you rebuild the parking lot, and any new parking would have to meet these requirements.

Sunderman wondered about replacing a parking lot due to deterioration, etc. Hill suggested that if the parking lot is resurfaced in the same exact location, these regulations would not apply.

Opposition

1. Craig Mason and Coby Mach appeared on behalf of **Lincoln Independent Business Association (LIBA)** in opposition. Coby Mach stated that LIBA would like to honestly applaud the openness of the process and the input that was sought by the Planning Director in establishing the recommendations. He acknowledged that a number of these recommendations are helpful and could lead to simplification of the process and uniformity in the requirements for new development, but there are some proposed changes that are not needed. LIBA is all for the beautification of our city, but they do not like placing additional burdens on the business community that exceed basic needs.

Mach stated that LIBA disagrees with the proposed design standards relating to screening, parking lot trees, pedestrian circulation and some of the setback provisions. LIBA likes trees; however, they disagree with adding more trees in or around parking lots. Trees do not flourish when surrounded by cement. In parking lots, trees take up usable space, require excessive

maintenance, etc. They cost the business owner in planting and replacing them. Increasing tree requirements may require builders to create a larger lot. The increased requirement will add an additional drain on our water resources. Lincoln is a beautiful city with a lovely existing tree canopy. Parking lots are already required to include trees and LIBA takes the position that it is not necessary to add trees. While trees can be moved out of a parking lot, you have to plant two to replace one in a parking lot.

Mach also indicated that LIBA does not like the proposed screening ordinance for parking lots and businesses. Vegetation limits snow removal and shrinks a parking lot during the winter. We also need to focus on security issues. Such ordinances increase the risk of crime in eliminating public sight lines. Mach also pointed out that this proposal is coming on the heels of an October 13, 2005, memo from the Lincoln Police Department which was circulated to local businesses, which, in essence, suggests that we need to keep shrubbery and landscaping trimmed and to a minimum, and to make certain that employees are parking near the building. Violent crimes are more likely to occur in a parking facility than any other commercial location. As a result, the National Institute of Justice recommends designing parking facilities to increase surveillance from every source available. Limiting vision into a parking lot from the street, and providing hiding places for criminals behind the screening shrubbery or trees, increases the risk of crime in these locations. Even camera surveillance systems can be hampered by screening and trees. The Lincoln banking community is concerned about trees that would block the view of cameras in their lots.

LIBA is also concerned by the changes in certain setback and pedestrian circulation provisions. While adjusting the setback makes great sense, the elimination of driveway and turnaround lanes for certain businesses will hamper and increase start-up costs for restaurants and gas stations. They make little sense for health care facilities and clubs.

Mach encouraged the Planning Commission to focus on the needs, not the desires. LIBA believes that by modifying the proposal to adopt the positive provisions, our city would be very well served.

Esseks inquired as to the list of "positive provisions". Mach did not have a written list, but he believes there are many, such as reducing the setback. LIBA agrees to reducing the number of trees required around a business, although this proposal increases the number of trees required in a parking lot.

Tom Cajka of Planning staff clarified that these rules would only apply to new construction or additions to existing buildings, and to new construction of parking lots or additions to parking lots.

Staff questions

Taylor inquired about trees damaging concrete. What are we doing and what kind of trees are we planting so that the investments of the businesses are protected while achieving our goal of increasing screening? Cajka advised that there is no height limit, but it is required to be a shade tree. Some of the problems can be resolved in the growth of the trees. The proposed amendment provides that the unpaved planting area would not be less than 50 sq. ft.

Taylor is also concerned about water. Are the bushes going to require any extra watering? Isn't there a period of time when the trees hit a certain height that they are removed? Marvin Krout pointed out that LES sometimes tops trees and sculpts trees when there is potential for interference with overhead electrical lines. Lynn Johnson advised that there was a period of time when we were not as careful about the species of trees. LES has gone through and tried to prune around the power lines. It does get to a point where the trees have been pruned enough that they will take them down and replace them with a smaller tree. Parks is working with LES on a program toward this end.

Taylor inquired whether removing one tree requires that two be planted to replace it. Johnson responded, stating that it is one-to-one for street trees. Krout agreed that it is not a two-for-one replacement, but for a long time it has been the policy that if you are planting a tree on the outside of a parking lot, rather than inside where it is shading the whole parking lot, you would plant two trees instead of the one tree that is inside the parking lot. That has been the policy for a long time and we are not proposing any change to that. On the issue of damage, the staff has recommended that trees be omitted that would be shallow rooted trees that might cause those kinds of problems. If planting in the parking lot, there should be a somewhat larger area than the minimum we have for planting to provide some more breathing room. It is an option to put all of the trees on the outside of the parking lot but there are more trees because you are only shading a portion of the parking lot.

Krout pointed out that the proposed ordinance does provide for a reduction of the standard of trees that relate to building coverage and there is an increase in or around parking lots. The effect is that we are not proposing to require any more trees. It is a wash when it comes to the new development districts. In the older business districts where we don't have a requirement for trees related to buildings, we are asking for a slightly higher requirement for trees in and around parking lots so that we can come close to providing some more tree cover. When it comes to screening or landscape buffers along streets, or tree planting, there is a wide difference between the older business districts in the older neighborhoods and the newer districts. We are trying to close that gap.

Strand suggested that if Westfield Shoppingtown wanted to do a renovation, would they have been required to spend extra money to put trees in the parking lot and lose parking? Krout

stated that if they did not change their parking lot or building coverage, these amendments would not have caused any changes.

In terms of trees, Esseks believes the issue is having them in the front where there is parking. What is the purpose of the 90% screen? Krout indicated that the requirement for low shrubs adequately screens the bumpers and the headlights. The glare from the headlights is a real problem at nighttime. The problem with the 60% is that you either get clumps of shrubs or you get someone planting every 7' instead of every 5', which looks like someone just got to the end of their budget and they just didn't have enough money to landscape so they spread out their shrubs and it looks like missing teeth. It provides a much more tailored and uniform look with the consistent low screening. It is a common requirement in many, many communities. This allows the parking lot to come up within 20' of the street.

Strand referred to 27th and Stockwell, where there is a Whitehead Oil U-Stop that is beautifully landscaped. Their landscaping is not necessarily shrubs, but lilies, flowers, etc. Is that still allowed? Krout explained that the idea is to have something that does not get knocked down in the wintertime. There needs to be something consistent for 12 months of the year. That doesn't mean that someone can't come in with an alternative plan. We are suggesting that waivers of the standards, including these screening and landscape standards, be approved by the Planning Director versus applying for a waiver to the Planning Commission and possibly the City Council. We are also suggesting language that says that if you "substantially" meet the requirements, you are approved. He believes that provides the leeway and discretion to be able to look at a different plan and to be able to approve it administratively.

Carroll inquired about using an earth berm as part of the screening, and Krout indicated that a berm can meet the requirement in whole or in part.

Larson inquired whether the purpose of the trees is to shade the parking lot. Krout agreed that to be part of it. Most people are looking for parking that is shaded when it is hot, but, from an environmental viewpoint, we are also trying to cool the city, reduce runoff, and affect pollution. It has been shown that cities with good tree cover are cooler than cities without it.

Carlson observed that this is meant to be a package that involves give and take. It adds opportunities for development. It appears that the opponents like the give but they don't like the take. Krout agreed that these regulations have been presented from the beginning as a "package deal" and it is part of a more general principle of being more efficient in terms of process and more common sense in terms of the regulations, but we are also trying to tune-up the standards where they are in need of it. It is a package deal and it is a staff-initiated amendment. We tried to listen and to make changes, but with regard to the screening and the parking lot requirements for trees, what is proposed is about the bottom line. Krout does not want to withdraw anything because there is a lot that is good in this package. The motion to amend submitted by staff today is in response to some dialog with the Realtors Association.

Krout believes the proposed amendments are reasonable changes and that they help address some of the concerns of the people he met with last week.

2. Larry Albers testified on behalf of **Enterprise Company**, which owns three shopping centers in the city. He spoke generally in favor but Enterprise Company is particularly concerned with what is going on with the widening of "O" Street. Enterprise Company owns the shopping center at 48th and "O". The widening of "O" Street and 48th Street is already taking some of the parking. With these new standards, they will potentially lose even more parking in order to meet these new standards. They have not had time to measure the fiscal impact. They can comply but it is going to prove to be very costly to meet the new standards. Alternatively, Albers proposed that consideration be given to exempting any projects subject to a condemnation from these standards, especially since the developers that are there now did not take this into account.

3. Mark Hunzeker appeared on behalf of the **Lincoln Board of Realtors**. He believes it is a great overstatement to say that these standards represent "a wash" in terms of cost and additional standards on new development. One of the things used as an example early on in this process as a project which would not meet these standards was a picture of Williamsburg Village. If we have reached a point in this community where the Williamsburg Village standard is not good enough for us, then what is the standard that has to be met in order to do business in Lincoln, Nebraska? We have had a laundry list of proposals come through this community in the last year which have diminished the availability of land for development in new areas. This package includes an increase in the minimum rights-of-way for arterial streets which more than offsets the reductions in front yards, particularly when coupled with the elimination of driving aisles in front yards. The increase in the number of trees and screening will require additional land for each new business built in this community. It is not a wash. It is an increase in costs at a time when our building permits for this year for single family homes and other types of development are down. Single family is down 20% from last year, which was down 20% from the year before that. It is the wrong time to be adding to the cost of doing business in this community. Hunzeker suggested that this is not a package that should be forwarded on because "we all like trees". Does anyone really believe we are going to cool down this city by planting a few more trees in parking lots? We will increase the cost of maintenance, the difficulty of snow removal and increase the amount of land necessary for a business to operate.

Hunzeker suggested that more thought could be given to this and maybe the proposal should be held over for further public hearing given the timing of this hearing during the holiday.

Response by the Applicant

Marvin Krout reminded the Commission that the staff has been talking for over a year with the development community about this proposal. He did acknowledge that in an early set of

photographs shown by a former planner in the Department, Williamsburg Village was identified as an example of not having trees in parking lots, but that is when we had a preliminary proposal that was suggesting that half of the trees be in the parking lot or in a peninsula or island. That requirement has been removed from the proposal because Williamsburg is a good example of landscaping. The proposal does not suggest adding the requirement that there be trees in parking lots. All of the trees may be planted around the parking lot. But, if you are not planting the trees in the parking lot, then there should be more trees around the edge.

Krout agreed with the comments about property which is the subject of condemnation being exempted from the new standards.

Esseks noted Mr. Hunzeker's comments about widening the required right-of-way for streets. Krout clarified that not to be part of this recommendation. Hunzeker was referring to a debate the community had about how wide the arterial street right-of-way should be during the debate on the Comprehensive Plan that was adopted three years ago. This proposal does refer to new rights-of-ways being 120', but that is not a new standard. The Comprehensive Plan sets forth a 120' standard, which has been in effect for three years.

Krout agreed that there have been some standards that have increased costs, but this package is an attempt to compensate by reducing front yard setbacks.

CHANGE OF ZONE NO. 04066**ACTION BY PLANNING COMMISSION:**

December 21, 2005

Carroll moved approval, seconded by Esseks.

Carlson believes these amendments to the zoning ordinance include the positive parts of the proposal. Adopting this language that decreases the setback creates additional land. He is in favor of increasing the "give", hoping that the "take" follows along.

Strand commented that she supported impact fees under the premise that everything else would go with it, and the good portion got yanked.

Motion for approval carried 7-0: Carroll, Esseks, Larson, Sunderman, Strand, Taylor and Carlson voting 'yes'; Pearson and Krieser absent. This is a recommendation to the City Council.

MISCELLANEOUS NO. 04015**ACTION BY PLANNING COMMISSION:**

December 21, 2005

Carroll moved approval, with the amendments submitted by staff today and with amendment to exempt areas which are subject to condemnation, seconded by Taylor.

Larson stated that he will vote against this text amendment because he thinks there is a problem with parking lots. There has already been a lot of compromise on parking lots. He believes there might be an opportunity to come up with something more acceptable if this were deferred for more dialog between the business owners, developers and the staff.

Strand expressed concern about that much screening and the requirement for a certified landscape contractor. Impact fees are going up to \$4,000 in January. We just keep increasing costs and she wants to find ways to soften that with the soft market that we have in Lincoln right now.

Carroll observed that this proposal has been discussed with the development community for over a year, so it is not like the staff is trying to slip this in at the last minute. A lot of people have had time to make input. Yes, they might lose land for trees but they are gaining land back by the setback requirement being reduced. It is important to improve the look of this city. We do not have a lot of trees. We are talking about improving the city by design and that is very important. He thinks it is a benefit for the city to pass this.

Taylor agreed with Carroll. We want to improve our city. The market may be soft now but it's not going to be that way forever. We need to keep the future in mind and be more optimistic. He believes these standards are necessary for environmental considerations in terms of pollution, emissions, and sight pollution. He believes it is something we need for our city. We need all the trees we can get.

Esseks agreed with the comments by Carroll and Taylor. Another point is that these are incremental changes and because the additional costs should be relatively light, he hopes that the market can bear them. He also believes that we need to compete with other communities on the basis of quality of life and this would be a step forward.

Carlson believes this is important. Omaha has recognized that this is important and they are increasing their standards, and their business community is leading the charge.

Motion for approval, with amendments, carried 5-2: Carroll, Esseks, Sunderman, Taylor and Carlson voting 'yes'; Larson and Strand voting 'no'; Pearson and Krieser absent.

MISCELLANEOUS NO. 05007

ACTION BY PLANNING COMMISSION:

December 21, 2005

Carroll moved approval, seconded by Esseks and carried 7-0: Carroll, Esseks, Larson, Sunderman, Strand, Taylor and Carlson voting 'yes'; Pearson and Krieser absent. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 2:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on January 4, 2006.

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